

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

REC'D 03 MAY 2006

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To:

The International Bureau of WIPO
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CH - 1211 Geneva 20
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NOTIFICATION CONCERNING
DOCUMENTS TRANSMITTED

Date of mailing
(day/month/year)

02.05.2006

International application No: PCT/US2005/012198

This International Preliminary Examining Authority transmits herewith the following documents:

1. ☐ demand (Rule 61.1(a)).
2. ☒ copy of the international preliminary examination report and its annexes (Rule 71.1).
3. ☐ _____ other documents (*specify*):

Name and mailing address of the international
preliminary examining authority:

 European Patent Office
D-80298 Munich
Tel. +49 89 2399 - 0 Tx: 523656 epmu d
Fax: +49 89 2399 - 4465

Authorized Officer

Menrath, S

Tel. +49 89 2399-2569



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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference PWO051440	FOR FURTHER ACTION		See Form PCT/PEA/416
International application No. PCT/US2005/012198	International filing date (day/month/year) 08.04.2005	Priority date (day/month/year) 08.04.2004	
International Patent Classification (IPC) or national classification and IPC INV. B65D71/00			
Applicant MEADWESTVACO PACKAGING SYSTEMS LLC et al.			
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 6 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> sent to the applicant and to the International Bureau a total of 5 sheets, as follows:</p> <p><input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>			
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the report</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input checked="" type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input checked="" type="checkbox"/> Box No. VIII Certain observations on the international application</p>			
Date of submission of the demand 08.02.2006		Date of completion of this report 02.05.2006	
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465		Authorized officer Grondin, D Telephone No. +49 89 2399-2583 	

**INTERNATIONAL PRELIMINARY REPORT
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Box No. I Basis of the report

1. With regard to the **language**, this report is based on
- ☒ the international application in the language in which it was filed
 - ☐ a translation of the international application into , which is the language of a translation furnished for the purposes of:
 - ☐ international search (under Rules 12.3(a) and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4(a))
 - ☐ international preliminary examination (under Rules 55.2(a) and/or 55.3(a))
2. With regard to the **elements*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):*

Description, Pages

4-9 as originally filed
1-3 filed with telefax on 22.03.2006

Claims, Numbers

1-12 filed with telefax on 22.03.2006

Drawings, Sheets

1/7-7/7 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-11
	No: Claims	12
Inventive step (IS)	Yes: Claims	1-11
	No: Claims	12
Industrial applicability (IA)	Yes: Claims	1-12
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

Concerning Item V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

INDEPENDENT CLAIMS 1 AND 7

Technical Field: The invention relates to a two piece carton and to a two part blank for forming the carton.

Closest prior art: From the document GB 2 171 672 A (D1), a two piece carton is known wherein first and second complementary U shaped structures are assembled to form the carton.

Problem: The technical problem to be solved may be regarded as how to provide a two piece carton with means for displaying the articles in combination with an access means for removal of the articles.

Differences with the prior art: The subject-matter of claim 1 differs from the known carton in that the top wall is positioned at an elevation lower the upper edges of the end walls, the first and second U-shaped structures together providing a substantially fully enclosed carton.

Inventive step: None of the available documents shows or suggests the differences with the closest prior art as cited above.

US 2 899 051 A (D2) and US 3 394 800 A (D3) show two piece cartons having a top wall positioned at the same height as the end walls.

GB 406 511 A (D4) discloses a top panel made by a diaphragm positioned below the upper edges of the end walls. However the diaphragm is a single horizontal panel and is not part of a U-shaped structure.

WO 03/070580 A (D5) discloses a one piece carton.

According to the invention the carton provides an adaptable carrying container, the structural integrity of which is not destroyed when the bottles are accesses.

Independent claim 7 claims the same inventive features as claim 1.

INDEPENDENT CLAIM 12

The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 12 is not new in the sense of Article 33(2) PCT.

Document D4 discloses a carton comprising opposed side walls, opposed end walls and top and bottom panels, wherein a plane of the top panel is lower than an upper edge of either end wall and wherein the carton further comprises handle apertures (10) struck from the end walls (see p.2, l.51-123 and fig.1-5).

For the sake of completeness, the attention of the applicant is drawn to the fact that the document D5 discloses all the features of claim 12 as well: see the figures 1-10.

Concerning Item VII

Certain defects in the international application

Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the documents D1 to D5 is not mentioned in the description, nor are these documents identified therein.

Independent claims 1 and 7 are not in the two-part form in accordance with Rule 6.3(b) PCT.

The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).

Concerning Item VIII

Certain observations on the international application

INDEPENDENT CLAIM 11

Although claims 11 and 7 have been drafted as separate independent claims, they appear to relate effectively to the same subject-matter and to differ from each other only with

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(SEPARATE SHEET)**

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regard to the definition of the subject-matter for which protection is sought. The aforementioned claims therefore lack conciseness and as such do not meet the requirements of Article 6 PCT.

DEPENDENT CLAIMS 2 AND 9

According to claim 1 the top panel is positioned at an elevation lower the upper edges of the end walls. Thus claim 2 is unclear as it claims a top panel disposed "at an elevation below an upper extremity of either end wall of the carton **and/or** of either side wall of the carton" (Article 6 PCT).

Claim 9 contains only features that are already claimed in independent claim 7. The aforementioned claims therefore lack conciseness and as such do not meet the requirements of Article 6 PCT.